



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-82,491-01**

**EX PARTE DEREK ELMORE, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. CR07538  
IN THE 220<sup>TH</sup> DISTRICT COURT FROM HAMILTON COUNTY**

*Per curiam. Yeary, J. filed a dissenting opinion.*

## OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant pleaded guilty to online solicitation of a minor and, after a period of community supervision, was sentenced to ten years' imprisonment. He did not appeal his conviction.

This Court, in *Ex parte Lo*, held unconstitutional the online solicitation of a minor statute for which Applicant was convicted. *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). Applicant, through counsel, filed this habeas application based on the *Lo* decision and asks that his conviction

be set aside.

Relief is granted. The judgment in Cause No. CR07538 in the 220<sup>th</sup> District Court of Hamilton County is set aside and Applicant is remanded to the custody of the Sheriff of Hamilton County to answer the charges as set out in the indictment so that the indictment may be disposed of in accordance with this Court's opinion in *Ex parte Lo*. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: February 24, 2016  
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